THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.7830 of 2006

Dated:09.06.2006

Between:

K.Krishna.

..... PETITIONER

AND

The Spl.Chief Secretary to the Govt. of A.P., and the Chief Commissioner for Land Administration, A.P., Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.7830 of 2006

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ORDER:

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The petitioner filed the present writ petition seeking a writ of mandamus declaring the action of the respondents in not considering the representation made

by him on 06.03.2006 as illegal and arbitrary. In the said representation, the petitioner alleged that the fourth respondent herein constructed a house on a nala (public drainage canal) contrary to law. He also seeks appropriate direction to the respondents.

The petitioner is a resident of Shamrao Nagar, Chintalbasthi, Khairtabad, Hyderabad. Alleging that the fourth respondent is trying to encroach upon the public drainage canal, he filed a suit, being O.S.No.1749 of 2004 on the file of the Court of the IV Junior Civil Judge, Hyderabad, and obtained *ad interim* injunction in I.A.No.363 of 2004. It is alleged that the fourth respondent approached the third respondent, namely, the Mandal Revenue Officer, and obtained a certificate to the effect that there is no nala at the place where the house was constructed. According to the petitioner the third respondent gave a false certificate contrary to the record maintained by the revenue officials. Subsequently, the petitioner also approached the Institution of Lokayukta of Andhra Pradesh by filing complaint No.713 of 2005. He alleged that the third respondent issued a false certificate. The Hon'ble Lokayukta after conducting enquiry found that the Certificate issued by the third respondent was false and the second respondent was directed to conduct enquiry into the matter. It is alleged that the second respondent conducted such enquiry and by order dated 06.12.2005 directed the third respondent to cancel the Certificate issued in favour of the fourth respondent. Thereafter, the petitioner made a representation on 06.03.2006 for appropriate action.

The fourth respondent filed a counter affidavit denying the allegations made in the writ affidavit. It is his case that he constructed the house on the open land and made an application for regularization of the occupation in accordance with G.O.Ms.No.515, dated 17.03.2003, which is under consideration. While denying the allegation that he constructed the house on public drainage canal, he submits that the house he constructed is 40 feet away from the nala, and the petitioner who bore grudge against him has made a false complaint. It is further stated that the petitioner filed O.S.No.4711 of 2003 on the file of the Court of the IV Junior Civil Judge, Hyderabad, against the fourth respondent and his wife, and a reference is made to the other cases as well. The matter initially came up before this Court for preliminary hearing on 20.04.2006. On that day, this Court directed the second respondent to inspect the house bearing No.10-1-601/11-A, Shamrao Nagar, and adjacent areas after intimation to the property owners and submit a report. This Court also observed that proper steps are to be taken to preserve nala by removing encroachments. In obedience thereto, the second respondent has submitted a report vide letter bearing Lr.No.L02/F2/690/2005, dated 10.05.2006, duly enclosing Town Survey Register Extract and Location Sketch.

The learned Counsel for the petitioner, Sri M.Damodar Reddy, and the learned Counsel for the fourth respondent, Sri A.Srinath Reddy, were duly supplied with the copies of the report submitted by the District Collector to this Court. Both the learned Counsel were heard, who reiterated various contentions raised in the affidavits.

The question whether the fourth respondent occupied the public drainage

canal and raised a house in respect of which he sought regularization is a question of fact. For this reason, this Court called for a report from the District Collector, which has been duly submitted. In this background, especially having regard to the relief prayed, this Court refrains from making any observation. The only prayer that is made is a direction to the Mandal Revenue Officer to consider the representation/application made by the petitioner on 06.03.2006 after the Hon'ble Lokayukta passed orders. Now that the inspection report is also on record along with the Town Survey Register Extracts and the local area sketch map, it would not be difficult for the Mandal Revenue Officer to dispose of the representation made by the petitioner, if such representation is not already disposed of. Needless to point out that the Mandal Revenue Officer should take into consideration the report submitted by the District Collector to this Court before passing any orders. The Mandal Revenue Officer may dispose of the representation of the petitioner within a period of two weeks from the date of receipt of a copy of this order in accordance with the observations made hereinabove.

The Writ Petition, with the above directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

09.06.2006

vs